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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,066	08/21/2003	Elliot A. Gottfurcht	15771.0008	8436

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EXAMINER

CHAMPAGNE, DONALD

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,066

Applicant(s)

GOTTFURCHT, ELLIOT A.

Examiner

Donald L. Champagne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 23-28 and 30-95 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20, 23-28 and 30-95 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 25 Apr 06.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed with an amendment on 25 April 2006 have been fully considered but they moot in view of the following new basis of rejection.

Information Disclosure Statement

2. The attached certified copy of form PTO-1449, filed on 25 April 2006 could not be fully certified because two NPL items were inadequate. The "Business Editors" item was not found in the USPTO's IFW database and the "homedepot" item did not contain the indicated results for 21 February 2002.
3. Applicant may have the two defective items considered without paying additional fees by: submitting legible copies of both items in reply to this Office action, with a new form PTO-1449 listing both resubmitted items thereon, and citing this Office action as authority for the waiver of fees.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-20, 23-28 and 30-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szabo (US006868525B1) in view of Herz et al. (US006571279B1).
6. Szabo teaches (independent claims 1 and 11) a method, and a machine-readable medium containing said method, the method comprising:

soliciting advertiser bids for placement in a list of relevant results (col. 48 lines 20-22), which reads on receiving a plurality of bids at a processor, each of the bids comprising a bid amount and (inherently) storing the bids in a memory, and ranking the plurality of bids based on a comparison of the bid amounts using the processor;

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storing a hierarchical navigation search interface in memory (col. 8 lines 15-23), the hierarchical navigation search interface comprising a plurality of layers, at least one of the layers having a plurality of options (col. 47 lines 37-65 including Fig. 9);

selecting ads to be associated with content *within a hierarchical tree* (col. 18 lines 8-10 and col. 40 lines 57-61), which, with soliciting advertiser bids for placement in a list of relevant results (col. 48 lines 20-22), reads on selecting content for display on at least one of the layers of the hierarchical navigation search interface based on the ranking of the bids;

displaying, on a display of a user terminal, the selected content in at least one of the layers of the hierarchical navigation search interface, and wherein upon receipt of a user input corresponding to an option in the layer, displaying a next deeper layer of the hierarchical navigation search interface (col. 47 lines 37-65 including Fig. 9).

7. Szabo does not teach that the received bids are associated with time or location factors. Herz et al. teaches that the received bids are associated with time or location factors (col. 5 lines 22-23 and col. 11 lines 54-57). Because Herz et al. teaches that this optimizes information delivery or maximizes revenue (col. 5 lines 30-34 and col. 11 lines 57-59), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Herz et al. to those of Szabo.
8. Szabo also teaches at the citations given above claims 2, 3, 6, 9, 10, 12, 13, 16, 19, 24, 27, 30-33, 38, 43, 44, 51, 58, 59, 60-63, 68, 73, 74, 81, 88 and 89.
9. Szabo also teaches claims 35-37 and 65-67 (col. 29 lines 1-5 and col. 17 lines 21-24); claims 40 and 70 (col. 15 lines 32-35); claims 42 and 72 (col. 27 lines 37 and 50) claims 49 and 79 (col. 28 lines 1-2); and claims 90 and 91 (col. 27 lines 59-61).
10. Herz et al. also teaches at the citations given above claims 4, 5, 7, 8, 14, 15, 17, 18 and 92-95.
11. Herz et al. also teaches claims 23 and 26 (col. lines 59-62 and 17-22, and col. 5 lines 22-23) and claims 34 and 64 (col. 11 lines 26-32).
12. Neither reference teaches (claims 10, 20, 47, 52, 53 and 77, 82, 83) interactive television using matrix based hierarchical navigation. Official notice is taken (MPEP § 2144.03) that interactive television using matrix based hierarchical navigation (e.g. for program directories) was well known at the time of the instant invention. Because it is obvious to use the well

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known, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add this limitation to the teachings of the references cited above.

13. Neither reference teaches claims 25, 28, 39, 41, 45, 46, 48, 50, 54-57, 69, 71, 75, 76, 78, 80 and 84-87. These limitations were well known at the time of the instant invention.

Furthermore, all are of a nature such that it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add these teachings to those of the references cited above. Official notice of this common knowledge or well known in the art statement was taken in the last Office action (mailed on 23 March 2006, para. 15). This statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. (MPEP 2144.03.C.)

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717. The fax phone number for all *formal* matters is 571-273-8300.
17. The examiner's supervisor, Eric Stamber, can be reached on 571-272-6724.

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18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
19. **AFTER FINAL PRACTICE** – Consistent with MPEP § 706.07(f) and 713.09, prosecution generally ends with the final rejection. Examiner will grant an interview after final only when applicant presents compelling evidence that “disposal or clarification for appeal may be accomplished with only nominal further consideration” (MPEP § 713.09). The burden is on applicant to demonstrate this requirement, preferably in no more than 25 words. Amendments are entered after final only when the amendments will clearly simplify issues, or put the case into condition for allowance, clearly and without additional search or more than nominal consideration.
20. Applicant may have after final arguments considered and amendments entered by filing an RCE.
21. **ABANDONMENT** – If examiner cannot by telephone verify applicant’s intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office’s web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.



DONALD L. CHAMPAGNE
PRIMARY EXAMINER

Donald L. Champagne
Primary Examiner
Art Unit 3622

8 September 2006